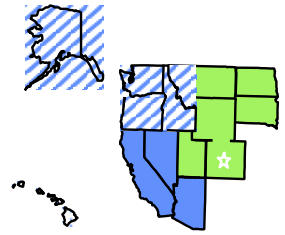




US Army Environmental Center  
Western Regional Environmental Office  
REGION 8 – JUNE 2003

# WESTERN REGION REVIEW



The WESTERN REGION REVIEW provides current information on significant regulatory & legislative developments, as well as related information affecting DOD activities & operations in the Federal Region 8 area: Colorado, Montana, North Dakota, South Dakota, Utah, & Wyoming. We appreciate your feedback & encourage you to submit suggestions for future discussion. Please contact Marius Gedgaudas at the Western Regional Environmental Office, U.S. Custom House, 721 19<sup>th</sup> St., Room 427, Denver, CO 80202-2500, Phone: (303) 844-0954, or e-mail: [mgedgaud@rma.army.mil](mailto:mgedgaud@rma.army.mil).

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## DID YOU KNOW?

- The electronic version of the Western Region Review has been enhanced to increase ease in navigating through the document. Simply "click" on a topic in the table of contents and go directly to that section – to return to the top of the section click "top of section" - and to return to the top of document click "top of review". In addition, the agency emblems/logos and state flags hyperlink directly to the website – simply click and you are on your way.

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## FEDERAL AGENCY NEWS & REGULATORY DEVELOPMENTS



### ENVIRONMENTAL PROTECTION AGENCY (EPA) INFORMATION

#### AIR INFORMATION:

**FINAL RULE – NESHAP FOR BRICK, STRUCTURAL CLAY PRODUCTS, AND CLAY CERAMICS MANUFACTURING** – On 16 May 2003 (68 FR 26689), EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources at brick, structural clay products and clay ceramics manufacturing facilities. This action implements section 112(d) of the Clean Air Act by requiring major sources to meet hazardous air pollutant (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT). The rules will reduce HAP emissions from existing sources by 2,300 tons per year nationwide, with hydrogen fluoride and hydrogen chloride accounting for 2,290 tons per year (99.6 percent) of the total HAP emissions reductions from existing sources. The final rule was effective 16 May 2003. For further information, contact Mary Johnson, EPA at (919) 541-5025, or e-mail: [Johnson.mary@epa.gov](mailto:Johnson.mary@epa.gov).

**FINAL RULE – NESHAP FOR ENGINE TEST CELLS/STANDS** – On 27 May 2003 (68 FR 28774), EPA promulgated NESHAP for engine test cells/stands. EPA identified engine test cells/stands as major sources of HAP such as toluene, benzene, mixed xylenes, and 1,3-butadiene. The final NESHAP will protect public health by reducing exposure to air pollution. The final rule was effective 27 May 2003. For further information, contact Jaime Pagan, EPA at (919) 541-5340, or e-mail: [pagan.jaime@epa.gov](mailto:pagan.jaime@epa.gov).

**FINAL RULE – NESHAP GENERAL PROVISIONS AND REQUIREMENTS FOR CONTROL TECHNOLOGY DETERMINATIONS FOR MAJOR SOURCES** – On 30 May 2003 (68 FR 32585), EPA adopted final amendments to the NESHAP General Provisions and to the rule which establishes criteria and procedures for equivalent emission limitations adopted pursuant to Clean Air Act (CAA) section 112(j). These final rule amendments establish a new timetable for the submission of section 112(j) Part 2 applications, which is based on the timetable for promulgation of the remaining NESHAP, and modify the content requirements for Part 2 applications. These amendments also establish revised procedures for requests for applicability determination previously submitted under the section 112(j) rule, and for section 112(j) applications submitted by sources that previously obtained a case-by-case determination under CAA section 112(g). These amendments also revise startup, shutdown, and malfunction plans. The amendments were effective 30 May 2003. For further information, contact Rick Colyer, EPA at (919) 541-5262, or e-mail: [colyer.rick@epa.gov](mailto:colyer.rick@epa.gov).

**PROPOSED RULE – REVISIONS TO NESHAP GENERAL PROVISIONS** – On 15 May 2003 (68 FR 26249), EPA proposed amendments to the General Provisions for NESHAP that would provide regulatory relief to facilities that use pollution prevention to achieve and maintain HAP emissions reductions equivalent to or better than the MACT level of control required under applicable NESHAP. EPA also proposed additional incentives specifically designed for facilities that are members of the National Environmental Performance Track program. This program recognizes and encourages top environmental performers: those who go beyond compliance with regulatory requirements to attain levels of environmental performance and management that provide greater benefit to people, communities, and the environment. Comments are due by 14 July 2003. For further information, contact Steve Fruh, EPA at (919) 541-2837, or e-mail: [fruh.steve@epa.gov](mailto:fruh.steve@epa.gov).

**PROPOSED RULE – CONTROL OF EMISSIONS FROM NONROAD DIESEL ENGINES AND FUEL –**

On 23 May 2003 (68 FR 28327), EPA proposed new emission standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel that will dramatically reduce emissions attributed to nonroad diesel engines. New engine standards will begin to take effect in the 2008 model year. EPA estimates PM reductions of 95%, NO<sub>x</sub> reductions of 90%, and the virtual elimination of SO<sub>x</sub> from nonroad engines meeting the new standards. Nonroad diesel fuel sulfur reductions will begin in mid-2007. EPA also proposed new test procedures and related certification requirements. Comments are due by 20 August 2003. For further information, contact Carol Connell, EPA at (734) 214-4349, or e-mail:

[connell.carol@epa.gov](mailto:connell.carol@epa.gov).

**PROPOSED RULE – AMENDMENTS TO NSPS MONITORING REQUIREMENTS –**

On 8 May 2003 (68 FR 24692), EPA proposed to add Procedure 3, Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources, to the Standards of Performance for New Stationary Sources (NSPS) regulations. This proposal provides quality assurance/quality control procedures for a continuous opacity monitoring system used for compliance purposes. Comments must be received by 7 July 2003. For further information, contact Solomon Ricks, EPA at (919) 541-5242, or e-mail:

[ricks.solomon@epa.gov](mailto:ricks.solomon@epa.gov).

**WATER INFORMATION:****FINAL RULE – EFFLUENT LIMITATION GUIDELINES FOR METAL PRODUCTS AND MACHINERY**

**POINT SOURCE CATEGORY –** On 13 May 2003 (68 FR 25685), EPA published final regulations establishing Clean Water Act technology-based effluent limitations guidelines for the metal products and machinery point source category. This category includes facilities that manufacture, rebuild, or maintain metal products, parts, or machines. EPA promulgated limitations and standards only for facilities that directly discharge wastewaters from oily operations in the Oily Wastes subcategory. EPA expects compliance with this regulation to reduce the discharge of conventional pollutants by approximately 500,000 pounds per year. This regulation will be effective 12 June 2003. For further information, contact Carey Johnston, EPA at (202) 566-1014.

**GENERAL INFORMATION:****NOTICE OF AVAILABILITY – DRAFT DATA STANDARD FOR FEDERAL FACILITY IDENTIFICATION AND PERMITTING INFORMATION –**

On 9 May 2003 (68 FR 25029), EPA published a notice of availability for a 45-day public comment period for the Draft Federal Facility Identification Data Standard and the Draft Data Standard for Permitting Information. These draft standards consist of a list of data elements, definitions for these elements, formats, notes, and explanatory preamble language. Environmental Data Standards Council (EDSC) participants developed the standards. EDSC partnership includes states, tribes, and EPA. The EDSC convened one Action Team whose purpose was to reach consensus on standardized means of identifying facilities that are, or were, owned or operated by the Federal government. The EDSC also formed an Action Team to develop a comprehensive set of data elements to facilitate the sharing of permit related information. Comments must be submitted by 23 June 2003. For further information, contact John Harman, EPA at (202) 566-0748.



## GENERAL INFORMATION

**NOTICE OF AVAILABILITY – GAO REPORT: CLEANUP COORDINATION AT FORMER DEFENSE SITES** - GAO has released a document entitled "DoD Has Taken Steps to Improve Cleanup Coordination at Former Defense Sites but Clearer Guidance Is Needed to Ensure Consistency." The report recommends that DoD work to improve coordination with states and EPA, and: (1) develop clear and specific coordination guidance that should explicitly include preliminary assessment of eligibility and ordnance and explosive waste; (2) assess recent efforts to improve coordination and promote wider distribution of best practices; and (3) work with EPA to clarify their respective roles in the cleanup of former defense sites that are not on the list of the nation's worst hazardous sites. The report is available at <http://www.gao.gov/new.items/d03146.pdf>.

**NOTICE OF AVAILABILITY – GUIDANCE FOR THE ESTABLISHMENT, USE, AND OPERATION OF CONSERVATION BANKS** – On 8 May 2003 (68 FR 24753), the U.S. Fish and Wildlife Service (FWS) announced the availability of guidance for the establishment, use, and operation of conservation banks. Conservation banks are a tool to offset adverse impacts to species listed as threatened or endangered under the Endangered Species Act (ESA) of 1973. The purpose of this guidance is to help FWS personnel evaluate and approve conservation banks in the context of fulfilling the purposes of ESA. An electronic copy of the guidance is available at <http://endangered.fws.gov/>. For further information, contact Patrick Leonard, FWS at (703) 358-2171.

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## UPCOMING CONFERENCES, SYMPOSIUMS AND TRAINING ANNOUNCEMENTS

### NEPA WORKSHOP FOR FEDERAL AGENCIES

**10-12 June 2003 – San Francisco, California**

Individuals new to NEPA, as well as those needing a refresher class, should consider taking this course. It will provide practical advice on working with this far-reaching environmental statute. NEPA veterans will share lessons learned and approaches to common problems EIS and EA preparers encounter. For more information, contact John King at (415) 974-1221, or link: <http://www.ttsfo.com/NEPA>.

### NATURAL RESOURCES COMPLIANCE

**10-13 June 2003 – Charleston, South Carolina**

This course offers instruction in specific natural resource laws, regulations, policies, Executive Orders, DoD Instructions, and other guidance, noting Service-specific requirements. It addresses stewardship, preservation, and process; fish, game, and wildlife management laws; protection of wetlands, waterways, and other protected ecological areas; forest and land use management laws; and interservice cooperation. Practical exercises and guest speakers are included. For more information or to register, link: <https://www.cecos.navy.mil>.

### NATURAL RESOURCES WORKSHOP FOR FEDERAL AGENCIES

**13 June 2003 – San Francisco, California**

This workshop will provide an overview of the major natural resource regulations and strategies for compliance. Topics include recent developments on wetlands regulations, resource tools for complying with the Endangered Species Act, and an update on regulatory requirements. For more information, contact John King at (415) 974-1221, e-mail: [john.king@tetrattech.com](mailto:john.king@tetrattech.com), or link: <http://ttso.com/NEPA>.

### AIR AND WASTE MANAGEMENT ANNUAL CONFERENCE & EXHIBITION

**22-26 June 2003 – San Diego, California**

AWMA will be presenting its 96<sup>th</sup> annual conference with the theme: "Environment in the Balance...THE JOURNEY AHEAD," and will focus on "Energy, Economy & Global Challenges." AWMA has posted a Technical Program grid on its website. For more information, link <http://www.awma.org>.

### HISTORIC PRESERVATION LAW AND SECTION 106 COMPLIANCE

**8-10 July 2003 – West Point, New York**

**23-25 September 2003 – Newport, Rhode Island**

This course emphasizes legal compliance (the National Historic Preservation Act Section 106 process) using actual case studies. It addresses legislation and the process to meet the requirements of the law. Course content includes: the stewardship role; use of historic properties; and communications with related oversight agencies. For more information or to register, link: <https://www.cecos.navy.mil>.

### CERCLA/RCRA PROCESS COURSE

**15-18 July 2003 – Minneapolis, Minnesota**

The Army Corps of Engineers is offering this ISEERB designated course to all federal agencies. The course delineates both the CERCLA and RCRA regulatory requirements associated with cleanup and compares and contrasts the two programs from DoD's perspective as the lead federal agency. For more information or to register, contact Rebecca Rodriguez at (256) 895-7448.

**ENVIRONMENTAL MANAGEMENT SYSTEM (EMS) TRAINING****16-17 July 2003 - San Diego, California (tentative)**

In conjunction with the Federal Network for Sustainability, EPA is sponsoring EMS training workshops for federal agencies. Attendance will be limited to 60 persons. For more information or to register, contact Kaye McKnissey at (206) 553-1616, or e-mail: [mcknissey.kaye@epa.gov](mailto:mcknissey.kaye@epa.gov).

**ADVANCED RISK COMMUNICATION WORKSHOP****21-24 July 2003 – Denver, Colorado****13-15 January 2004 – San Diego, California****2-5 August 2004 – Salt Lake City, Utah**

The Army Center for Health Promotion and Preventative Medicine is presenting this workshop to instruct participants how to identify, build, maintain, and utilize strategic partnerships and plans to support an organization's mission. The workshop builds on the "Introductory Health Risk Communication Workshop" listed below (a pre-requisite for this course) and will provide participants with hands-on experience in applying the steps of the risk communication process, on-camera media practice, and seminar-style discussions of "hot" issues impacting military health and readiness. There is no registration fee. For more information or to register, contact Suaquita Perry (410) 436-3515, or link <http://chppm-www.apgea.army.mil/risk>.

**SUPER ENERGY SAVINGS PERFORMANCE CONTRACTING WORKSHOP****22-23 July 2003 – Washington, DC**

The U.S. Department of Energy, Federal Energy Management Program, is presenting this free workshop for federal employees involved in energy management, engineering, and procurement. Attendees will learn how to lower capital costs while reducing long-term energy and water bills. For more information or to register, call (703) 243-8343.

**NATIONAL FORUM ON WATER QUALITY TRADING****22-23 July 2003 – Chicago, Illinois**

This forum, sponsored by EPA, will focus on market innovations to restore watersheds and meet water quality goals with greater efficiency. It is designed for state environmental agencies, municipal and industrial dischargers, the agricultural community, and other watershed interests. For more information, contact Lynda Wynn at [wynn.lynda@epa.gov](mailto:wynn.lynda@epa.gov).

**CLEANUP SITE CLOSURE: INTEGRATING REGULATORY AND ADMINISTRATIVE ACTIVITIES****11-12 August 2003 – Las Vegas, Nevada**

The Resource Training Institute (RTI) is presenting this course for personnel who are involved in the planning and implementation of closure and post-closure care activities at hazardous and mixed waste management facilities and/or environmental restoration projects. Topics covered include CERCLA action completion, NPL deletion, RCRA hazardous waste management unit closure, conducting integrated planning of closure and post-closure care activities when CERCLA or RCRA programs apply at a site, and case studies to illustrate these activities. To register, contact the RTI Registrar at (803) 652-8830, or e-mail: [registrar@rtii.org](mailto:registrar@rtii.org). For more information, including the full schedule of RTI courses, link: <http://www.rtii.org>.

**8<sup>TH</sup> ANNUAL JOINT SERVICES P2 & HAZARDOUS WASTE MANAGEMENT CONFERENCE****11-14 August 2003 – San Antonio, Texas**

The Naval Facilities Engineering Command and the Air Force Center for Environmental Excellence are co-hosting this conference, which will provide an open forum for exchanging ideas, success stories, case histories, and technologies related to pollution prevention and hazardous waste management. This year's theme is: "Sustaining Readiness Through Environmental Stewardship. For more information, link: <http://www.p2-hwmconference.com>.



**2003 RCRA NATIONAL MEETING****12-15 August 2003 – Washington, D.C.**

EPA is sponsoring the 2003 Resource Recovery and Conservation Act National Meeting, "RCRA: Putting Resource Conservation in RCRA," which focuses on the Resource Conservation Challenge. This is a major national effort to conserve natural resources through waste reduction and energy recovery programs. For more information, link: <http://www.epa.gov/osw/meeting>.

**INTRODUCTORY HEALTH RISK COMMUNICATION WORKSHOPS****26-28 August 2003 – Seattle, Washington****27-29 October 2003 – Ft. Richardson, Alaska****3-5 November 2003 – Ft. Wainwright, Alaska****24-26 February 2004 – Seattle, Washington****27-29 April 2004 – Honolulu, Hawaii**

The Army Center for Health Promotion and Preventative Medicine is presenting these workshops to instruct participants how to identify, build, maintain, and utilize strategic partnerships and plans to support an organization's mission. The workshop will provide a basic understanding of the concepts, principles, and process of effective risk communication. Topics include: History and Philosophy of Risk Communication, Steps of the Risk Communication Process, Importance of Identifying, Understanding, and Collaborating with Key Stakeholders, Pitfalls to Effective Risk Communication, and Basic Tools for Engaging the Media. For more information or to register, contact Suaquita Perry (410) 436-3515, or link <http://chppm-www.apgea.army.mil/risk>.

**BROWNFIELDS 2003 CONFERENCE****27-29 October 2003 – Portland, Oregon**

EPA is sponsoring this conference on brownfields cleanup and reuse. The conference will include panel sessions, mobile workshops, "Marketplace of Ideas" roundtable discussions, and individual poster presentations. For further information, link: <http://www.epa.gov/brownfields>.

**NREP/INSTEP ANNUAL TECHNICAL CONFERENCE****17-21 November 2003 – Orlando, Florida**

The National Registry of Environmental Professionals and the International Society of Technical and Environmental Professionals are co-sponsoring this conference. The agenda includes certification preparatory workshops, technical papers, and special seminars for updating professional skills. For more information or to register, link: <http://www.nrep.org/conference/conference2.html>.

**CONFERENCE ON SUSTAINABLE RANGE MANAGEMENT****5-8 January 2004 – New Orleans, Louisiana**

Battelle is organizing this conference to provide a venue for exchange of information benefiting all stakeholders involved with range management issues. The technical programs will include urban growth and encroachment issues, management of airspace, noise abatement issues, air quality management, threatened and endangered species habitat protection, military munitions response program, and cleanup of munitions and explosives of concern. For more information, link: <http://www.battelle.org/rangecon>.

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## STATE REGULATORY DEVELOPMENTS, LEGISLATION, AND NEWS



## COLORADO

### AIR INFORMATION:

**FINAL REGULATION – REVISIONS TO AIR POLLUTION EMISSION NOTICES** – The Colorado Department of Public Health and Environment (CDPHE) has adopted revisions to the regulations governing air pollutant emission notices (APENs). The revisions amend the crude oil and condensate storage tank APEN exemptions, as well as the definition of "condensate." CDPHE also adopted an additional revision to require all materials incorporated by reference to be available for public inspection at any State Publications Depository Library. The statute requires the provision in order for the regulation to become final and effective. The revision was effective 30 May 2003. For more information, contact Phyllis Woodford at (303) 692-3221.

**PROPOSED REGULATION – MACT STANDARDS** – CDPHE has proposed to revise Regulation 8, Part A and E - MACT Standards to incorporate by reference revisions to the federal program. Comments are due by 5 June 2003. A public hearing will be held 19 June. For more information, contact Douglas Lempke at (303) 692-3478.

**PROPOSED REGULATION – REVISION OF DENVER CARBON MONOXIDE MAINTENANCE PLAN** – CDPHE has proposed to revise the EPA-approved carbon monoxide maintenance plan for the Denver area. The proposal includes the adoption of revised carbon monoxide emission budgets developed with EPA's MOBILE6 model. These emission budgets would replace previously adopted emission budgets that were developed with the MOBILE5b model. This proposal includes revisions to the Ambient Standards regulation to reflect the changes to the emission budget. Comments are due by 5 June 2003. A public hearing will be held 19 June. For more information, contact Douglas Lempke at (303) 692-3478.

### WASTE INFORMATION:

**PROPOSED REGULATION – BURNING HAZARDOUS WASTE** – CDPHE has proposed amendments for burning hazardous waste in incinerators, boilers, and industrial furnaces. The amendments are comparable to EPA's RCRA Boiler and Industrial Furnace (BIF) regulations. The amendments set levels of control for emissions of toxic organic compounds, toxic metals, HCl, chlorine gas and particulate matter. The proposed amendments also require owners and operators of BIFs to be subject to permitting and other standards applicable to hazardous waste treatment, storage, and disposal facilities. CDPHE will hold a public hearing on 17 June 2003. For more information, contact Gary Baughman at (303) 692-3338.

**PROPOSED REGULATION – INSPECTION OF OFF-SITE HAZARDOUS WASTE DISPOSAL SITES** – CDPHE has proposed amendments to the Hazardous Waste Regulations, which involve inspection of off-site hazardous waste disposal sites. The proposed amendments state that CDPHE shall conduct inspections of off-site hazardous waste disposal sites a minimum of (1) once a month when waste receipts are less than 500 tons per month; (2) a minimum of twice a month when waste receipts are between 500 tons and 1000 tons per month; and (3) a minimum of four times a month when waste receipts are greater than 1000 tons per month. CDPHE will hold a public hearing on 17 June 2003. For more information, contact Gary Baughman at (303) 692-3338.



**PROPOSED REGULATION – AMENDMENTS TO HAZARDOUS WASTE REGULATIONS** – CDPHE has proposed amendments to the Hazardous Waste Regulations, 6 CCR 1007-3. The proposed amendments include: (1) changing the rule to reflect the 2003-2004 fiscal year; (2) replacing "secondary material" with "spent material;" (3) exempting manufactured gas plant waste from solid waste that exhibits the characteristic of toxicity; (4) revising the "mixture" and "derived from" rules; and (5) removing the conditional exemption for certain slag residues, zinc fertilizers made from recycled hazardous secondary materials. CDPHE will hold a public hearing on 17 June 2003. For more information, contact Gary Baughman at (303) 692-3338.

**PROPOSED REGULATION – ANNUAL LEAK TESTS FOR TANKS AND ANCILLARY EQUIPMENT** CDPHE has proposed amendments to the Hazardous Waste Regulations, 6 CCR 1007-3, Part 265. The amendments require all ancillary equipment and non-enterable underground tanks to have an annual leak test by an independent, qualified, registered professional engineer that addresses cracks, leaks, corrosion, and erosion. CDPHE will hold a public hearing on 17 June 2003. For more information, contact Gary Baughman at (303) 692-3338.

### **WATER INFORMATION:**

**FINAL REGULATION – AMENDMENTS TO BIOSOLIDS REGULATION** – CDPHE has adopted amendments to its biosolids regulation (Regulation #64). A triennial review of the biosolids regulations was completed in fall 2002. Based on the triennial review, CDPHE determined that specific revisions were required. The proposed changes remove certain administrative requirements, and bring the rules into conformity with federal standards. The amendments will be effective 30 June 2003. For more information, contact Diana Glaser at (303) 692-3469.

**FINAL REGULATION – AVAILABILITY OF TMDL WAIVER FROM STORMWATER PERMIT REQUIREMENTS FOR SMALL CONSTRUCTION ACTIVITIES** – The Colorado Water Quality Commission has adopted amendments to the waiver provisions of the Phase II Stormwater Permit regulations for discharges associated with small construction activities. The amendments include a waiver of the permit requirement for small construction activities for which it is determined that stormwater controls are not necessary based on a TMDL or equivalent analysis that addresses pollutants of concern. The Commission's revisions also postpone the deadline date for stormwater permits for oil and gas construction activity that disturbs one to five acres of lands, provided that EPA has taken final action by the time of the Commission's hearing to postpone the corresponding federal application deadline. The amendments will be effective 30 June 2003. For more information, contact Diana Glaser at (303) 692-3469.

**PROPOSED REGULATION – GROUND AND SURFACE WATER STANDARDS FOR MTBE AND TBA** CDPHE has proposed regulations to adopt statewide ground and surface water quality standards for the gasoline oxygenates methyl-tert-butyl ether (MTBE) and tert-butyl alcohol (TBA). These regulations would be incorporated into the Basic Standards and Methodologies for Surface Water, Regulation #31, and the Basic Standards for Groundwater, Regulation #41. CDPHE will conduct a rulemaking hearing on 8 September 2003. For more information, contact Sarah Johnson at (303) 692-3609.

**PROPOSED REGULATION – REVISIONS TO DILLON RESERVOIR CONTROL REGULATION** – CDPHE has proposed revisions to the Dillon Reservoir Control Regulation, Regulation #71 to address issues raised in a March 2003 Triennial Review Informational hearing. CDPHE will hold a written comment only rulemaking hearing on 8 September 2003 to consider revision of the Copper Mountain Metro District phosphorus allocation to reflect completed nonpoint source trades. Written comments will be accepted until 8 July 2003. For more information, contact Diana Glaser at (303) 692-3469.

**PROPOSED REGULATION – PRETREATMENT REGULATIONS** – The Colorado Water Quality Control Commission has proposed amendments to its Pretreatment Regulations, Regulation 63. The purpose of these regulations is to fulfill the following objectives: (1) prevent the introduction of pollutants into Publically Owned Treatment Works (POTW) which interfere with the operation of a POTW, including interference with its use or disposal of sludge; (2) prevent the introduction of pollutants into POTW's

which will pass through the treatment works without receiving effective treatment or otherwise be incompatible with such works; and (3) improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. The Commission will hold a public hearing on 8 September 2003. Written comments will be accepted until 8 July. For more information, contact Diana Glaser at (303) 692-3469.

**PROPOSED REGULATION – REVISIONS TO 2003 WATER POLLUTION CONTROL REVOLVING FUND INTENDED USE PLAN** – The Colorado Water Conservation Board has proposed revisions to the State's Fiscal Year 2003 Water Pollution Control Revolving Fund Intended Use Plan, Regulation #52. Written comments will be accepted until 8 July 2003. For more information, contact Diana Glaser at (303) 692-3469.

**DEPARTMENTAL DISCUSSION – 2004 303 (d) LIST OF IMPAIRED WATERS AND LISTING CRITERIA** – CDPHE is discussing listing methodology for the 2004 303(d) list of impaired waters. CDPHE will hold an informational hearing in September 2003 and hopes to approve the list in March 2004, since it must be submitted to EPA by 1 April 2004. Tim Blume, Army REC Region 8, is participating on the stakeholder workgroup to develop the proposed list. For more information, contact Tim at (303) 844-0958, or Phil Hegeman, CDPHE at (303) 692-3500.

### Legislative Developments

The 2003 legislative session began 8 January and ended 7 May. For more information on the legislative session, link [http://www.state.co.us/gov\\_dir/stateleg.htm](http://www.state.co.us/gov_dir/stateleg.htm).

**COLORADO HB 1001 – WATER USE** - Requires the Colorado Water Resources and Power Development Authority to subsidize the cost of issuing bonds and notes for water management facilities that are raw water diversion or storage projects and that are jointly sponsored by two or more governmental agencies. Allows the State Engineer to approve, after notice and comment, the operation of substitute water supply plans during a drought. Allows entities that pay for repairs necessary to remove a reservoir storage restriction imposed by the State Engineer to apply for approval of the use of such storage as a drought substitute water supply plan. Signed by Governor Bill Owens (R) 25 April. The sponsor is Representative Diane Hoppe (R).

**COLORADO HB 1008 – WATER USE** - Authorizes the record or beneficial owner of a water right appurtenant to a land or water area to create a conservation easement in the water right. Specifies that if a mutual ditch company or irrigation district is the record owner of a water right, a conservation easement may be created in that water right only in accordance with the applicable requirements of the ditch company or irrigation district. Signed by Governor 17 April. The sponsor is Representative Lola Spradley (R).

**COLORADO HB 1015 – AIR QUALITY** - Delays for 5 years (until 1 July 2008) the first of a series of cumulative economic analyses of all air pollution control measures adopted by the state, to be undertaken by the Department of Public Health and Environment after public comment and review. Repeals a permit fee credit program for permittees that reduce their baseline level of emissions of regulated pollutants. Signed by Governor 7 April. The sponsor is Representative Rosemary Marshall (D).

**COLORADO HB 1016 – INSPECTION AND MAINTENANCE PROGRAMS** - Authorizes the Air Quality Control Commission to increase the effective duration of emissions compliance certifications issued for new motor vehicles. Authorizes the sale of a motor vehicle without obtaining an emissions test if the original new vehicle emissions certification does not expire within the next 12 months. Signed by Governor 2 May. The sponsor is Representative Shawn Mitchell (R).

**COLORADO HB 1035 – EXOTIC NUISANCE SPECIES** - Authorizes a board of county commissioners to contract with another board to manage and control pests, including sharing costs and employees. Requires such contract to be in writing and contain the purposes, rights, responsibilities, and financial obligations of each county. Clarifies that such contracting authority does not supercede existing legal obligations. Repeals a prohibition on the creation of pest control districts for weed management. Signed by Governor 7 April. The sponsor is Representative Bob Briggs (R).

**COLORADO HB 1046 – LAND USE** – Modifies the current conservation easement law by allowing such easements to be created through a reservation by a governmental entity or through a reservation or grant by a charitable organization. Signed by Governor 17 April. The sponsor is Representative Alice Madden (D).

**COLORADO HB 1053 – DIESEL EMISSIONS** - Modifies the requirements for testing diesel vehicle emissions. Expands the model year exemption from two to four years for heavy-duty diesel vehicles. Decreases the frequency of tests from annual to biennial for heavy-duty vehicles that are 10 model years old or newer and at least model year 1995. Requires testing of all diesel vehicles routinely operated in the program area, even if such vehicles are not registered or housed in the program area. Authorizes the transfer of ownership of a diesel vehicle from the lessor to the lessee without an emissions test during the first four model years of the vehicle's life. Makes other changes to the program, including changing the definition of a heavy-duty diesel vehicle from a vehicle that exceeds 7,500 pounds empty weight to a vehicle that exceeds 14,000 pounds gross vehicle weight rating. Signed by Governor 17 April. The sponsor is Representative Ann Ragsdale (D).

**COLORADO HB 1056 – WASTE** - Extends from 1 January 2004 to 1 January 2009 two repeal dates relating to the expenditure of solid waste fees to fund response actions at solid waste landfills and national priority list sites. Signed by Governor 21 May. The sponsor is Representative Joe Stengel (R).

**COLORADO HB 1092 – FORESTRY** - Directs the Department of Natural Resources and its divisions that own forested land, in consultation and cooperation with the State Forester, to actively manage all forested State lands consistent with applicable laws and State best management practices. The Department, using the range of management options appropriate to the given forest ecosystem, will: (1) reestablish natural forest conditions; (2) reduce the threat of large, high-intensity wildfires in the wildland-urban interface; (3) sustain and promote natural habitat consistent with healthy forest conditions; and (4) conserve and restore, as appropriate, natural water yields from forested watersheds. Sent to Governor 19 May. The sponsor is Representative Al White (R).

**COLORADO HB 1100 – LAND USE** - Authorizes a municipality, a county, the Colorado State Forest Service, the Wildlife Commission, the Colorado Water Conservation Board, and the Air Quality Control Commission to coordinate with the U.S. Secretary of the Interior and the U.S. Secretary of Agriculture to develop resource management plans for federal lands within its jurisdiction pursuant to federal law. Signed by Governor 17 April. The sponsor is Representative Matt Smith (R).

**COLORADO HB 1140 – NOXIOUS WEEDS** - Amends legislative findings to include eradication, containment, and suppression of noxious weeds as being in the best interests of Colorado. Prohibits the intentional introduction of a designated noxious weed into Colorado. Allows the Commissioner of Agriculture to seek reimbursement of costs associated with weed management related to the intentional introduction of designated noxious weeds from the entities involved in the introduction of the species. Directs the Department of Agriculture to classify noxious weeds. Sent to Governor 7 May. The sponsor is Representative Mark Larson (R).

**COLORADO HB 1340 – AIR EMISSIONS** - Authorizes the Air Quality Control Commission to revise the motor vehicle emission budgets contained in the carbon monoxide maintenance plans for the Longmont, Colorado Springs, and Denver metropolitan areas in 2003 by using the latest mobile source emissions model and guidance issued by EPA. Allows the Commission to remove emission control strategies from the Colorado Springs carbon monoxide maintenance plan as appropriate to comply with the national ambient air quality standards. Signed by Governor 22 May. The sponsor is Representative Bob Briggs (R).

**COLORADO HB 1358 – RADIOACTIVE WASTE** - Expands the definition of radioactive classified waste to include technologically enhanced naturally occurring radioactive materials, non-11 e (2) byproduct materials, and alternate feed materials. Defines ores. Exempts ores and certain technologically enhanced naturally occurring radioactive materials from the definition. Sent to Governor 19 May. The sponsor is Representative Lola Spradley (R).

**COLORADO HJR 1007 – WATER** - Determines that 82 proposed wastewater treatment system, stormwater, and nonpoint source pollution reduction projects are included as additions or modifications to the Project Eligibility List, as projects eligible for financial assistance through the Water Pollution Control Revolving Fund. Signed by Governor 12 February. The sponsor is Representative Diane Hoppe (R).

**COLORADO HJR 1011 – WATER USE** - Requires that the Colorado Department of Natural Resources and the Colorado Attorney General take all steps necessary to identify, claim, and put to beneficial use Colorado's full legal entitlement to water from the Colorado River. Signed by Speaker 27 March. The sponsor is Representative Ted Harvey (R).

**COLORADO HJR 1012 – ENDANGERED SPECIES** - Authorizes the Executive Director of the Department of Natural Resources to obligate and expend \$3,628,395 from the capital account of the Species Conservation Trust Fund for specified activities, programs, and species. Signed by Governor 8 April. The sponsor is Representative Diane Hoppe (R).

**COLORADO HJR 1015 – WATER CONSERVATION** – Asks homeowners' associations, municipalities, and counties to review their covenants, ordinances, resolutions, and procurement codes and contracts to evaluate their effects on the State's water resources. Require homeowners' associations municipalities, and counties to revise and implement covenants, ordinances, resolutions, or procurement codes and contracts that encourage and promote responsible water conservation measures, including specifically xeriscaping. Signed by Governor 8 April. The sponsor is Representative Tom Wiens (R).

**COLORADO SB 45 – WATER** - Increases the regulation of water well construction contractors and pump installers by: (1) requiring continuing education of such contractors and installers as a condition of licensure; (2) specifying additional enforcement authority of the State Board of Examiners of water well construction and pump installation contractors; and (3) creating a well inspection program to be paid for through license fees and a \$40 increase in well permit fees that would be paid into a newly-created well inspection cash fund. Signed by Governor 14 May. The sponsor is Senator Lewis Entz (R).

**COLORADO SB 73 – WATER** - Defines "re-timing well" as any well that diverts water for recharge or to augment or replace water to a stream, ditch, canal, or reservoir. Requires the State Engineer to adopt rules by 1 July 2003, for the use of tributary ground water in the South Platte river basin by re-timing wells and by wells that were vested on or before 7 June 1969. Exempts certain uses from the rules. Allows the State Engineer to approve replacement plans and requires the State Engineer to assume in such plans that depletions are at least 50% of diversions. Signed by Governor 30 April. The sponsor is Senator David Owen (R).

**COLORADO SB 85 – WATER** - Allows the Division of Water Resources engineers to approve loans of water rights within a stream system for up to 120 days upon submission of evidence quantifying the rights and a finding of no injury to other water rights. Allows the engineers to approve loans of water rights for up to 120 days to the Colorado water conservation board for instream use during a drought upon a finding of no injury to other water rights. Vetoed by Governor 22 May. The sponsor is Senator Jim Isgar (D).

**COLORADO SB 115 – WATER** - Defines "removal of water" as a change in the type and place of use of an absolute decreed agricultural water right from irrigated agricultural use in one county to a use not primarily related to agriculture in another county. Defines a "significant water development activity" as any removal of water that results in the transfer of more than 1,000 acre-feet of consumptive use of water per year by a single applicant. Requires applicants for a significant water development activity to notify affected local governments, school districts, and water districts. Signed by Governor 7 April. The sponsor is Senator Mark Hillman (R).

**COLORADO SB 181 – WATER** - Increases well permit fees to be deposited in the Ground Water Management Cash Fund. Makes a supplemental appropriation. Effective immediately. Signed by Governor 5 March. The sponsor is Senator Peggy Reeves (D).

**COLORADO SB 313 – WATER** - Requires the State Engineer to promulgate rules that will govern water banks if a water conservancy district or water conservation district agrees to serve as the operator of the bank. Prohibits the transfer of water through the banks between divisions unless surplus water is available. Died upon adjournment 7 May. The sponsor is Senator Lewis Entz (R).

**COLORADO SB 319 – WATER** - Allows water right applicants, during a drought emergency declared by the Governor, to use a new process for review and adjudication of transbasin diversions. Applies to diversions

involving a new water diversion, conveyance, or storage infrastructure, or an increase in the yield or an improvement in the operational efficiency of existing infrastructure. Died upon adjournment 7 May. The sponsor is Senator Lewis Entz (R).

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## MONTANA

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### WATER INFORMATION:

#### **FINAL REGULATION – PERFORMANCE STANDARDS FOR UNDERGROUND STORAGE TANKS –**

The Montana Department of Environmental Quality has adopted amendments to the performance standards for underground storage tanks. The amendments: (1) update and correct federal and State regulatory references; (2) clarify which tanks are exempt from regulation; (3) define the requirements of proper tank installation; (4) enumerate the requirements the installer or inspector must verify in the Certification of Compliance; (5) require licensed installers or department inspectors to certify compliance with department rules for tank installations; and (6) update performance standards for underground storage tank installations incorporated by reference in the rule. The amendments were effective 23 May 2003. For more information, contact Kirsten Bowers at (406) 444-1448, or link:

<http://www.deq.state.mt.us/dir/legal/Notices/17-189.pro.pdf>.

### Legislative Developments

The 2003 legislative session began 6 January and ended 26 April. The following is a summary of significant environmental bills that were enacted and signed. For more information on the legislative session, link <http://www.leg.state.mt.us>.

**MONTANA HB 42 – EXOTIC NUISANCE SPECIES** - Requires the Department of Fish, Wildlife, and Parks (DFWP) to calculate the amount of habitat available for elk, deer, and antelope in Montana. Requires a determination of sustainable populations based on the habitat calculation. DFWP must ensure that populations of elk, deer, and antelope are at or below the population estimate. Requires that DFWP consider the specific concerns of private landowners when determining sustainable numbers of the animals. Requires DFWP to adopt rules for determining sustainability. Signed by Governor Judy Martz (R) 5 May. The sponsor is Representative Debby Barrett (R)

**MONTANA HB 43 – ASBESTOS, AIR QUALITY** - Amends the criteria for evaluation of control measures for an asbestos project and for completion of these projects. Includes requirements for issuance of asbestos project permits and permit conditions. Effective immediately. Signed by Governor 14 February. The sponsor is Representative Jill Cohenour (D).

**MONTANA HB 71 – FUELS** - Eliminates the Department of Transportation's authority to stop and inspect diesel-powered vehicles suspected of using dyed-fuel. Effective immediately. Signed by Governor 25 March. The sponsor is Representative Karl Waitschies (R).

**MONTANA HB 89 – WATER QUALITY** - Extends the schedule for completing total maximum daily loads for streams listed in 1997 from 10 years to 15 years. Effective immediately. Signed by Governor 26 March. The sponsor is Representative Alan Olson (R).

**MONTANA HB 128 – NOXIOUS WEEDS** - Establishes the Noxious Weed Management Trust and establishes strict monetary guidelines for acquired funds. Must be approved by qualified electors in order to become a ballot measure on the November 2004 ballot. Signed by Governor 26 March. The sponsor is Representative Diane Rice (R).

**MONTANA HB 142 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - Requires State officials responsible for the preparation of an environmental impact statement to consult with any local government that may be directly impacted by a project. Signed by Governor 26 March. The sponsor is Representative Ronald Devlin (R).

**MONTANA HB 144 – UNDERGROUND STORAGE TANKS** - Revises the Underground Storage Tanks Act to include facilities where there is a possibility of a release or a threatened release of a hazardous or deleterious substance; limits expense reimbursements to two years; and allows DEQ to adopt, modify, or repeal rules for the prevention of and correction of leakage from underground storage tanks. Signed by Governor 26 March. The sponsor is Representative Christopher Harris (D).

**MONTANA HB 218 – WASTE TRANSPORTATION** - Establishes the Montana High-Level Radioactive Waste and Transuranic Waste Transportation Act; requires that the owner of a high-level radioactive waste or transuranic waste pay fees and obtain a permit before shipping the waste through Montana. Prohibits a person or entity from transporting high-level radioactive waste or transuranic waste through the State by rail or motor carrier without prior notification of the Disaster and Emergency Response Services Division and the Department of Transportation, payment of the appropriate fees, and obtaining a permit. Signed by Governor 5 May. The sponsor is Representative Sylvia Bookout-Reinicke (R).

**MONTANA HB 303 – SITING CRITERIA** - Revises the definition of "facility siting" in the Montana Code of Laws to exclude an electric transmission line extending from an electrical generation facility to the point at which the transmission line connects to a regional transmission grid at an existing transmission substation or other facility. Signed by Governor 15 April. The sponsor is Representative Alan Olson (R).

**MONTANA HB 326 – WATER USE** - Increases the water appropriation rights in the Upper Clark Fork river basin from ten to thirty years. Sunsets these provisions in July 2005. Signed by Governor 7 April. The sponsor is Representative Brad Newman (D).

**MONTANA HB 368 – UST CLEANUP** - Eliminates the two-year time limit for submitting claims for reimbursement from the Petroleum Tank Release Cleanup Fund. Modifies the eligibility requirements and revises procedures for reimbursement of eligible costs. Permits third-party review of claims and plans, and revises the authority of the Department of Environmental Quality for underground storage tanks leaks. Signed by Governor 8 April. The sponsor is Representative Ronald Devlin (R).

**MONTANA HB 378 – EXOTIC NUISANCE SPECIES** - Modifies the current "native plant" definition to include any species that occurred in Montana before 1805. Effective immediately. Signed by Governor 24 March. The sponsor is Representative Veronica Small-Eastman (D).

**MONTANA HB 420 – PESTICIDES** - Decreases the fee paid by commercial applicators, pesticide dealers, and government agencies for the waste pesticide and pesticide container collection, disposal, and recycling program. Repeals the termination of the waste pesticide and pesticide container collection, disposal, and recycling program and the assessment of fees for funding the program. Signed by Governor 3 April. The sponsor is Representative Bob Lake (R).

**MONTANA HB 427 – AIR QUALITY** - Requires the Department of Environmental Quality to act on air quality permit applications within sixty days after the Department's receipt of the application. Requires the Department to prepare a single environmental review for permit applications. Requires the Board of Environmental Review to provide a thirty-day public comment period on certain air quality permit applications. Signed by Governor 24 March. The sponsor is Representative Gail Gutsche (D).

**MONTANA HB 437 – ENVIRONMENTAL ENFORCEMENT** - Requires enforcement of environmental provisions and acts stated in the constitution. Requires enforcement of public policy and property in lawful



ways with the intent of preventing, abating, and controlling waste pollution within the State. Signed by Governor 16 April. The sponsor is Representative Alan Olson (R).

**MONTANA HB 443 – SITING CRITERIA** - Modifies the information requirement for siting applications by eliminating the requirement that a copy of an application be sent to other local, state, and federal governmental entities. Amends public notice requirements. Adjusts the filing fee scale. Decreases time requirements of the siting laws. Signed by Governor 3 April. The sponsor is Representative Michael Lange (R).

**MONTANA HB 467 – WATER QUALITY** - Requires the Board of Environmental Review to provide a written summary when accepting a petition to classify waters as outstanding resource waters. Requires a hearing when a petition has been submitted to the Board. Signed by Governor 3 April. The sponsor is Representative Debby Barrett (R).

**MONTANA HB 591 – TRANSPORTATION** - Requires term permit fees for certain overweight vehicle loads. Signed by Governor 14 April. The sponsor is Representative Daniel Fuchs (R).

**MONTANA HB 676 – LAND USE** - Establishes that a "project" under the Streambed and Land Preservation Act of 1975 is a physical alteration or modification of a natural, perennial-flowing stream or river, its bed, or its immediate banks. Applies retroactively to all notices of projects pending before a conservation district. Signed by Governor 21 April. The sponsor is Representative Monica Lindeen (D).

**MONTANA HB 677 – LAND USE** - Establishes the jurisdiction of justice courts for violations of the Natural Streambed and Land Preservation Act of 1975. Establishes criminal fines and administrative penalties for violations. Requires district court jurisdiction if the liability for restoration is greater than \$7000. Signed by Governor 23 April. The sponsor is Representative Monica Lindeen (D).

**MONTANA HB 678 – LAND USE** - Establishes a declaratory ruling process under the Natural Streambed and Land Preservation Act of 1975. Authorizes the Board of Supervisors of a conservation district to issue declaratory rulings. Establishes judicial review of a declaratory ruling. Signed by Governor 11 April. The sponsor is Representative Monica Lindeen (D).

**MONTANA HB 683 – WATER** - Revises requirements for a change in a water appropriation right. Permits a change in a water appropriation right without prior approval of the Department of Natural Resources and Conservation for a municipal replacement well when the appropriation does not exceed 450 gallons a minute. Signed by Governor 28 March. The sponsor is Representative John Brueggeman (R).

**MONTANA HB 700 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - Provides the Board of Environmental Review with authority for staying certain actions. Authorizes the Board to adopt rules for registration of sources of air contaminants and general permits and multiple similar sources. Authorizes the Board to adopt rules for general permits for discharges from categories of point sources. Signed by Governor 4 April. The sponsor is Representative John Brueggeman (R).

**MONTANA HB 720 – WATER USE** - Requires the Department of Natural Resources and Conservation to adopt rules for determining whether a water use permit application is correct and complete. Signed by Governor 5 May. The sponsor is Representative Daniel Hurwitz (R).

**MONTANA HJ 4 – WATER USE** - Establishes an interim study to investigate options for improving the supply and distribution of water in Montana. The study must also evaluate water storage policy and culminate in a report back to the 59th Legislature and the Montana Congressional Delegation. Became law 15 April. The sponsor is Representative Michael Lange (R).

**MONTANA HJ 32 – ENDANGERED SPECIES** - Urges the Governor, the Montana Congressional Delegation, and the U.S. Secretary of the Interior to seek the immediate removal of the gray wolf from the endangered species list and the return of control of the wolf to the State. Urges Montana officials to

actively pursue the delisting effort on terms favorable to Montana. Urges the State Attorney General to join the State in any legal action brought to block the wolf delisting process. Became law 15 April. The sponsor is Representative Dick Haines (R).

**MONTANA SB 14 – WATER USE** - Establishes a period of adjudication proceedings during negotiations of federal Indian and non-Indian reserved water rights. Signed by Governor 24 March. The sponsor is Senator Bea McCarthy (D).

**MONTANA SB 34 – EMINENT DOMAIN** - Establishes a limit to adjustments for inflationary costs on construction projects within the State. Effective immediately. Signed by Governor 15 April. The sponsor is Senator Gregory D. Barkus (R).

**MONTANA SB 101 – LAND USE** – Requires the Montana Heritage Preservation and Development Commission to adopt rules for the acquisition and sale of real or personal property. Requires the Commission to consider: (1) whether the property represents the State's culture and history; (2) whether the property can become self-supporting; (3) whether the property can contribute to the economic and social enrichment of the State; and (4) whether the acquisition or sale will create significant social and economic impacts to local governments or the State. Signed by Governor 30 April. The sponsor is Senator Dale Mahlum (R).

**MONTANA SB 133 – ENERGY STANDARDS** – Requires all boiler and pressure vessels installed in the State to be designed, manufactured, and sealed or stamped under a national code and registered with the State Fire Marshal. Requires the approval of the Department of Labor, Licensing and Regulation and institutes a penalty for failure to register a boiler or pressure vessel. Signed by Governor 9 April. The sponsor is Senator Warren Giese (R).

**MONTANA SB 137 – LAND USE** - Enables the Montana Board of Land Commissioners to issue commercial land leases where the chief value of the lease is to maximize the long-term revenue generated from leasing the land. Allows the Board of Land Commissioners to have complete autonomy in determining the development of the land for commercial purposes. Authorizes State land to be leased for a term not to exceed 99 years for commercial purposes to the highest bidder responding to a department request for proposals for commercial uses of a specified tract. Allows the Board to enter into leases of State land for commercial purposes upon terms and conditions that the Board reasonably determines to be in the best interests of the State. Signed by Governor 17 April. The sponsor is Senator Bob DePratu (R).

**MONTANA SB 326 – GROWTH MANAGEMENT** - Establishes that preparation and adoption of a growth policy are optional. Amends law governing the contents of a growth policy to authorize rather than require elements of a growth policy. Amends procedures for adoption, revision, and repeal of a growth policy. Requires questions regarding adoption or revisions of growth policy to be submitted to a vote. Mandates that a growth policy is not a regulation. Signed by Governor 9 May. The sponsor is Senator Dan McGee (R).

**MONTANA SB 375 – SCRAP TIRES** - Restricts the use of baled and waste tires. Signed by Governor 5 May. The sponsor is Senator Jim Elliot (D).

**MONTANA SB 383 – WATER QUALITY** – Allows routine or periodic maintenance, repair, or replacement of water conveyance systems if the activity does not result in exceeding water quality standards for any receiving water outside the water conveyance system. Mandates that such activities not interfere with the use of water in accordance with an existing water right or permit. Signed by Governor 22 April. The sponsor is Senator Keith Bales (R).

**MONTANA SB 442 – EXOTIC NUISANCE SPECIES** - Requires the Department of Fish, Wildlife, and Parks to issue permits for the importation, possession, or sale of controlled exotic wildlife. Establishes lists of noncontrolled, controlled, and prohibited exotic wildlife. Establishes a classification review

committee to advise the Fish, Wildlife, and Parks Commission regarding the importation, possession, and sale of exotic wildlife. Signed by Governor 22 April. The sponsor is Senator Emily Stonington (D).



## NORTH DAKOTA

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### AIR INFORMATION:

**PROPOSED REGULATION – PREVENTION OF SIGNIFICANT DETERIORATION INCREMENT** – The North Dakota Department of Health has proposed a determination of the adequacy of the North Dakota State Implementation Plan to prevent significant deterioration. Topics for discussion include: (1) recognition of the Calpuff air modeling system as an acceptable method for predicting expected ambient sulfur dioxide; (2) the potential benefits and potential implementation of the use of MM-5 data with the Calpuff air modeling system; (3) the need and potential implementation of statewide sulfur dioxide emission caps from major stationary sources to ensure no future violations of Class I increment; (4) the maintenance and, if necessary, expansion of the air quality monitoring network to ensure the collection of accurate and defensible actual ambient sulfur dioxide data; and (5) continuing dialogue and technical information exchange with EPA. The Department will hold a public hearing 12 June 2003. Written comments are due by 22 June. For more information, contact Tom Bachman at (701) 328-5188.

### WASTE INFORMATION:

**DEPARTMENTAL DISCUSSION – ADOPTION OF FEDERAL RULES** - The North Dakota Department of Health is drafting amendments to its hazardous waste management rules to adopt by reference federal RCRA amendments promulgated since late 1996. The EPA military munitions rule will be included in these amendments. The new rule will also include EPA's Universal Waste Rule for spent fluorescent lighting, which includes spent lighting devices which are not presently included in North Dakota's universal waste rule. The Department plans to propose the rules in summer 2003. For more information, contact Curt Erickson at (701) 328-5166.

### Legislative Developments

The 2003 legislative session began 7 January and ended 25 April. The following is a summary of significant environmental bills that were enacted and signed. For more information on the legislative session, link <http://www.state.nd.us/lr/>.

**NORTH DAKOTA HB 1066 – PESTICIDES** - Continues the agricultural pesticide and pesticide container disposal program. Effective through 31 July 2005. Signed by Governor John Hoeven (R) 7 April. The sponsor is Representative Eugene Nicholas (R).

**NORTH DAKOTA HB 1309 – FUELS** - Requires that beginning 1 July 2007, all diesel fuel sold or offered for sale in the State for use in internal combustion engines must contain at least 2% biodiesel fuel by volume. Signed by Governor 21 April. The sponsor is Representative Pam Gulleason (D).

**NORTH DAKOTA SB 2082 – PESTICIDES** - Defines "restricted use pesticide" as any pesticide formulation that is classified for restricted use by EPA. States that the assessment of a civil penalty does not preclude the imposition of other sanctions authorized under this measure. Signed by Governor 12 March. The sponsor is the Senate Agriculture Committee.

**NORTH DAKOTA SB 2126 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - Requires that a request for a hearing must be made in writing and state with particularity how the person would be aggrieved by the decision and the issues and facts to be presented at the hearing. Signed by Governor 12 March. The sponsor is the Senate Natural Resources Committee.

**NORTH DAKOTA SB 2254 – PESTICIDES** – Prohibits aerial spraying without a license from the North Dakota Aeronautics Commission. States that a person violating this law is guilty of a class B misdemeanor. Signed by Governor 9 April. The sponsor is Senator Tom Fischer (R).

**NORTH DAKOTA SB 2277 – WATER USE** - Creates a joint board as a political subdivision of the State relating to water resource districts. Signed by Governor 27 March. The sponsor is Senator Tom Fischer (R).

**NORTH DAKOTA SB 2319 – PESTICIDES** - Extends the pesticide registration fee past the original 30 June 2003 deadline. Signed by Governor 11 April. The sponsor is Senator Ronald Nichols (D).

**NORTH DAKOTA SB 2419 – WATER QUALITY** - Clarifies the State's authority to seek injunctive relief against governmental entities that violate water quality standards of the State. States that it is unlawful for any person to cause degradation of water quality if the degradation substantially interferes with, causes, or threatens to cause long-term or irreparable harm. Signed by Governor 27 March. The sponsor is Senator Bob Stenehjem (R).



## SOUTH DAKOTA

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### Regulatory Developments & Other State Information

**FINAL REGULATION – PESTS AND NOXIOUS WEEDS** – The South Dakota Department of Agriculture has adopted amendments to its weed and pest control regulations. The amendments: (1) clarify the locally noxious weed list; and (2) remove the prairie dog (*Cynomys ludovicianus*) from the statewide declared list of pests. The amendments were effective 18 May 2003. For more information, contact Ladonna Holm at (605) 773-3796, or link: <http://legis.state.sd.us/rules/register/03102003.pdf>.

**NOTICE OF AVAILABILITY – ENVIRONMENTAL PERMITTING AND REGULATION GUIDE** – The South Dakota Department of Environment and Natural Resources has issued an "Environmental Permitting and Regulation Guide." The guide identifies environmental regulations pertaining to permitting and identifies staff that can help with the permitting process. The guide is available at <http://www.state.sd.us/denr/ENVIRO/executive.htm>.

### Legislative Developments

The 2003 legislative session began 14 January and ended 24 March. A summary of significant environmental bills that were enacted and signed was included in the May Review. For more information on the legislative session, link <http://legis.state.sd.us/index.cfm>.



## UTAH

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### AIR INFORMATION:

**DIRECT FINAL RULE – APPROVAL OF CONTINUOUS EMISSION MONITORING PROGRAM** – On 15 May 2003 (68 FR 26210), EPA took direct final action to approve State Implementation Plan revisions regarding Utah's Continuous Emission Monitoring Program (CEM). The revisions to the CEM rule make it consistent with Federal regulations and the Clean Air Act. The intended effect of this action is to make the CEM rule federally enforceable. This rule will be effective on 14 July 2003 without further notice unless EPA receives adverse comments by 16 June 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect. For further information, contact Laurel Dygowski, EPA at (303) 312-6144.

### WASTE INFORMATION:

**NOTICE OF AVAILABILITY – PERCHLORATE FACT SHEET** – The Utah Department of Environmental Quality (DEQ), Division of Solid and Hazardous Waste, has issued a fact sheet describing the State's interest and concern regarding perchlorate. The fact sheet describes perchlorate and its effects on human health. It also identifies sites in Utah where perchlorate has contaminated groundwater and provides links to other sources of information about perchlorate. For more information, contact Bill Wallner at (801) 538-6170, or link: <http://www.hazardouswaste.utah.gov>.

### WATER INFORMATION:

**PROPOSED REGULATION – REVISED WATER QUALITY STANDARDS** – The Utah DEQ has proposed to amend its water quality standards. The amendments include: (1) revised equations for the calculation of the ammonia standards; (2) a new procedure for antidegradation review that will add a review process for all discharges placed into any river, stream, lake, or reservoir in the state; (3) metals standards revision; (4) new standards for total dissolved solids for stock watering; and (5) corrections of designated beneficial use classifications. The amendment will also adopt by reference the 2002 Review of the Standards for Salinity for the Colorado Basin. Written comments are due by 16 June 2003. For more information, contact Bill Moellmer at (801) 538-6329, or link: <http://rules.utah.gov/publicat/bulletin/2003/20030515/26242.htm>.

### Legislative Developments

The 2003 legislative session began 20 January and ended 5 March. A summary of significant environmental bills that were enacted and signed was included in the May Review. For more information on the legislative session, link <http://www.le.state.ut.us/>.

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## WYOMING

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### Regulatory Developments & Other State Information

**PROPOSED REGULATION – MILITARY MUNITIONS RULE** – On 23 April 2002, the Wyoming Water/Waste Advisory Board met to consider recommending adoption of the Military Munitions Rule (MMR). The Wyoming Department of Environmental Quality (DEQ) suggested that the Board recommend adoption of most, but not all, of the federal rule. DoD provided comments on DEQ's proposal. The issues have been resolved. DEQ is expected to repropose the regulation in the summer of 2003. For more information, contact Diane Connolly, WREO Regional Counsel at (303) 844-0955.

### WATER INFORMATION:

**DRAFT REGULATION – NPDES PERMIT UPDATES** – The Wyoming Department of Environmental Quality (DEQ) has drafted amendments to Chapters 2, 7, 10, and 18 of its water regulations. These amendments are outside of the triennial review process. The changes include: (1) an amendment to allow landowners and operators to seek site-specific effluent limits based upon a demonstration that the alternate limits for chlorides, sulfates and/or total dissolved solids would still ensure that agricultural and wildlife uses would be supported and that down stream water quality standards would not be exceeded; (2) effluent limits and minimum design standards for sedimentation control for coal mines; (3) phase II stormwater regulations; (4) permit application procedures; (5) general conditions applicable to permits; (6) reissuance of permits; (7) NPDES permit public hearing procedures; (8) mitigation procedures for dredge and fill activities in isolated wetlands; and (9) update general permit regulations to cover new general permits for stormwater discharges, temporary discharges, and some coalbed-methane-related discharges. The following urban areas will be subject to the phase II stormwater permit: (1) Cheyenne urban area (City of Cheyenne, Warren Air Force Base, and parts of Laramie County); and (2) Casper urban area (City of Casper, Mills, Evansville, and parts of Natrona County). The following towns are potentially subject to the permit: (1) Evanston; (2) Laramie; (3) Gillette; (4) Green River; (5) Rock Springs; and (6) Sheridan. DEQ may apply the designation criteria to towns under 10,000 people. DEQ will consider beginning formal rulemaking on the draft amendments at a meeting on 12 June 2003. For more information, contact Todd Parfitt at (307) 777-6709, or link:

<http://deq.state.wy.us/wqd/Downloads/events/Chap2may0103final.pdf>.

### Legislative Developments

The 2003 legislative session began 14 January and ended 6 March. A summary of significant environmental bills that were enacted and signed was included in the May Review. For more information on the legislative session, link <http://legisweb.state.wy.us>.

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